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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 Pacific Logistics Corp,

10 Plaintiff,

11 v.

12 Pacific Logistics Priority Mail, et al.,

13 Defendants.  
14

No. CV-19-05023-PHX-SMB

**ORDER**

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16 The Court has reviewed Plaintiff Pacific Logistics Corp’s *Ex Parte* Motion for  
17 Alternative Service. Having considered the Motion, the Memorandum of Points and  
18 Authorities, the Declaration of Milord A. Keshishian, the arguments, the exhibits, and all  
19 of the files, records, and proceedings herein, and finding good cause therefore, the Court  
20 herby **GRANTS** Plaintiff’s Motion.

21 **I. Background**

22 On August 29, 2019, this Court granted Plaintiff’s Motion for Temporary  
23 Restraining Order, which directed Pacific Logistics Corp (“PLC”) “serve the Complaint,  
24 this Motion for Temporary Restraining Order and Preliminary Injunction, and this Order  
25 upon Defendants immediately by email upon learning their identities.” ECF No. 16. The  
26 same day, the Court granted PLC’s Motion for Early Discovery permitting PLC to serve  
27 subpoenas on NameSilo, LLC (“NameSilo”), PrivacyGuardian.org (“Privacy Guardian”),  
28 Google, LLC (“Google”), and Cloudflare, Inc. (“Cloudflare”) to obtain the identities of the

1 Doe Defendants and Roe Corporations. ECF No. 17.

2 On September 6, 2019, PLC served subpoenas and copies of the Court's Order  
3 granting PLC's Temporary Restraining Order on NameSilo, Google, and Cloudflare.  
4 Declaration of Milord A. Keshishian ("Keshishian Decl."), ¶¶6-7. PLC attempted to serve  
5 a subpoena on Privacy Guardian, but the address is no longer associated with the company  
6 and there are no other known physical addresses for Privacy Guardian. Keshishian Decl.,  
7 ¶7. NameSilo responded to the subpoena and Court Order by emailing PLC that it locked  
8 the [www.pacificlogisticsprioritymail.com](http://www.pacificlogisticsprioritymail.com) domain name from transfer and identified Mark  
9 Develine as the Registrant, Administrative Contact, Technical Contact, and Billing Contact  
10 for the [subject](#) domain name. Keshishian Decl., ¶8. Develine provided NameSilo only a  
11 partial physical address located in the country of Cameroon, which does not provide a  
12 house number on "Church Street." Keshishian Decl., ¶8. Additionally, NameSilo's policy  
13 states it takes "reasonable steps to notify [the registrant] in the event that we are required  
14 to provide your personal information to third parties as part of legal process." Keshishian  
15 Decl., ¶9.

16 On September 6, 2019, PLC served – via RPost's registered email service –  
17 Develine copies of the Complaint, PLC's Ex Parte Motion for Temporary Restraining  
18 Order and Preliminary Injunction and related documents, and this Court's Order granting  
19 PLC's Ex Parte Motion for Temporary Restraining Order by email to  
20 [markdeveline@gmail.com](mailto:markdeveline@gmail.com) (the email address on record with NameSilo) and the email  
21 addresses identified in the Complaint: [pacificlogisticsprioritymail@gmail.com](mailto:pacificlogisticsprioritymail@gmail.com);  
22 [contact@pacificlogisticsprioritymail.com](mailto:contact@pacificlogisticsprioritymail.com); and [goerge.brolin@bestlogistic.com](mailto:goerge.brolin@bestlogistic.com).  
23 Keshishian Decl., ¶10. The email addressed to [goerge.brolin@bestlogistic.com](mailto:goerge.brolin@bestlogistic.com) was  
24 returned as undeliverable, but RPost provided evidence that the two Gmail addresses  
25 received and opened the email. Keshishian Decl., ¶11.

26 Thus, Develine is on notice of the Temporary Restraining Order, as well as the  
27 September 12, 2019 hearing on Plaintiff's Motion for Preliminary Injunction.

## 28 **II. Discussion**

1 Rule 4(f)(3) allows an individual located in a foreign country to be served by “other  
2 means not prohibited by international agreement, as the court orders.” Fed. R. Civ. P.  
3 4(f)(3); *see Rio Properties, Inc. v. Rio Int’l Interlink*, 284 F.3d 1007 (9th Cir. 2002)  
4 (allowing service of process by regular mail and e-mail under Fed. R. Civ. P. 4(f)(3)).  
5 Cameroon is not a signatory to the Hague Convention or any other international treaty with  
6 the United States affecting judicial proceedings. *See* U.S. Dept. of State, Judicial  
7 Assistance Country Information, available at  
8 [https://travel.state.gov/content/travel/en/legal/Judicial-Assistance-Country-](https://travel.state.gov/content/travel/en/legal/Judicial-Assistance-Country-Information/Cameroon.html)  
9 [Information/Cameroon.html](https://travel.state.gov/content/travel/en/legal/Judicial-Assistance-Country-Information/Cameroon.html); *see also Hydentra Hlp Int. Ltd. v. Porn69.org*, No. CV15-  
10 00451-PHX DGC, 2015 WL 8064770, at \*2 (D. Ariz. Dec. 7, 2015) (internal citations  
11 omitted). Thus, under Rule 4(f)(3) the court can direct alternate service because no  
12 international agreement prohibits same. *Rio*, 284 F.3d at 1014 (citation omitted). “Rule  
13 4(f)(3) is neither a ‘last resort’ nor ‘extraordinary relief,’” and, instead, “is merely one  
14 means among several which enables service of process on an international defendant.” *Id.*  
15 at 1015. A plaintiff requesting to serve a foreign defendant via alternative service “need  
16 not have attempted every permissible means of service of process before petitioning the  
17 court for alternative relief” and “[i]nstead ... need[ ] only to demonstrate that the facts and  
18 circumstances of the present case necessitate[ ] the district court’s intervention.” *Id.* at  
19 1016.

20 “[A]lternative method[s] of service must comport with constitutional notions of due  
21 process.” *BMO Harris Bank, N.A. v. Guthmiller*, No. CV-14-00275-PHX-JAT, 2014 WL  
22 2600362, at \*2 (D. Ariz. June 10, 2014). Due process is served where service is effected  
23 by means that are “reasonably calculated, under all the circumstances, to apprise interested  
24 parties of the pendency of the action and afford them an opportunity to present their  
25 objections.” *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 314, 70 S.Ct. 652,  
26 94 L.Ed. 865 (1950).

27 Courts in this District have permitted plaintiffs to serve foreign defendants by email.  
28 *See Rio*, 284 F.3d 1007; *see also Avvo Inc. v. Chang Liang*, No. CV-16-00892-PHX-DLR,

1 2016 WL 8739200, at \*1 (D. Ariz. Apr. 6, 2016) (permitting service by email where the  
2 court acknowledged defendant maintained email address for business purposes and website  
3 maintenance); *Hydentra Hlp Int. Ltd.*, 2015 WL 8064770 at \*3 (allowing service via email  
4 to email addresses uncovered during early discovery).

5 Here, PLC seeks leave of the Court to effect service of process on Develine via  
6 email. NameSilo, the domain name registrar, identified Develine's email as  
7 [markdeveline@gmail.com](mailto:markdeveline@gmail.com) for maintenance of the [www.pacificlogisticsprioritymail.com](http://www.pacificlogisticsprioritymail.com)  
8 domain name. Keshishian Decl., ¶8. Develine's physical address provided to NameSilo  
9 is incomplete because it simply provides "Church Street" without a house number.  
10 Keshishian Decl., ¶8. Thus, Develine cannot be physically be located. Additionally, this  
11 Court previously allowed the Temporary Restraining Order to be served via email. ECF  
12 No. 16.

13 Further, service by email comports with due process because Develine received and  
14 opened the RPost Registered emails sent to [markdeveline@gmail.com](mailto:markdeveline@gmail.com) and  
15 [pacificlogisticsprioritymail@gmail.com](mailto:pacificlogisticsprioritymail@gmail.com) with a copy of the Complaint, PLC's motion for a  
16 temporary restraining order and accompanying documents, and this Court's Temporary  
17 Restraining Order. Keshishian Decl., ¶¶10-11. Moreover, Develine was likely notified by  
18 NameSilo of the request to divulge his name as the registrant. Keshishian Decl., ¶9.

19 Because Develine is already aware of the pending action and there are no  
20 international agreements prohibiting service by email, the Court grants the motion to serve  
21 Develine with the summons and complaint via email at the [markdeveline@gmail.com](mailto:markdeveline@gmail.com), and  
22 [pacificlogisticsprioritymail@gmail.com](mailto:pacificlogisticsprioritymail@gmail.com) email addresses.

### 23 **III. Conclusion**

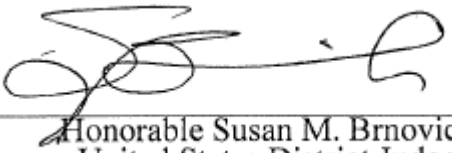
24 The Court finds Plaintiff satisfied requisite requirements for alternative service on  
25 Defendant Develine via email to [markdeveline@gmail.com](mailto:markdeveline@gmail.com) and  
26 [pacificlogisticsprioritymail@gmail.com](mailto:pacificlogisticsprioritymail@gmail.com).

27 **IT IS HEREBY ORDERED** that Pacific Logistics Corp's *Ex Parte* Motion for  
28 Alternative Service is hereby GRANTED. Plaintiff may serve Defendant Develine at

1 [markdeveline@gmail.com](mailto:markdeveline@gmail.com) and [pacificlogisticsprioritymail@gmail.com](mailto:pacificlogisticsprioritymail@gmail.com). Service is valid  
2 upon transmission of an email to Defendant Develine.

3 Dated this 12th day of September, 2019.

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Honorable Susan M. Brnovich  
United States District Judge